Remarks

Claims 1 to 97 have been cancelled without prejudice or disclaimer and with the understanding that the subject matter encompassed by these cancelled claims may be pursued in a future continuation application. New claims 98 to 135 have been added. At the least, the new claims find support in claims 1 to 97 as originally filed and throughout the specification. Accordingly, no new matter has been introduced by any of the new claims.

1. Rejection under 35 U.S.C. 102(e)

Claims 1-9, 58-59 and 94-97 have been rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 6,171,549 to Kent ("Kent").

Kent does not disclose a rate of irradiation of greater than 3.0 kGy/hr nor does this reference disclose irradiation of a plasma protein fraction. Therefore, at least for this reason, Kent cannot anticipate new claims 98 to 125, all of which include one or both of these requirements. In light of this fact and because rejected claims 1-9, 58-59 and 94-97 have been canceled, Applicants therefore respectfully request that this rejection be withdrawn.

2. Rejection under 35 U.S.C. 103(a)

Claims 10-57 and 60-93 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Kent. According to the Examiner, it would have been obvious to a skilled artisan to arrive at Applicants' claimed methods based on the general information described in Kent for methods of sterilizing products. More specifically, the Examiner cites a court holding that where the general conditions of a claim are disclosed in the prior art, discovery of the optimum or workable ranges involves only routine skill in the art.

Applicants respectfully disagree with the Examiner's assessment of the applicability of Kent to Applicants' claimed invention. Kent does not teach or suggest general rate conditions for irradiating the described materials. Rather, Kent only discloses gamma irradiation at a rate from about 0.1 kGy/hr to about 3.0 kGy/hr. This disclosed range, combined with the disclosure in Kent that high doses of radiation are injurious to particular biological materials, would suggest that irradiating at rates above 3.0 kGy/hr. would be deleterious to biological materials. Further, considering that Kent's described preferred rate is 0.5 kGy/hr to about 1.0 kGy/hr, and that all of the examples in Kent describe an irradiation rate of 1 kGy/hr or less, a skilled artisan would certainly not be motivated to employ rates of irradiation higher than

the upper limit disclosed by Kent and much higher than the preferred rate range with a reasonable expectation of success. To do so would completely ignore Kent's teachings and suggestions regarding its described invention. For at least this reason, Applicants respectfully request that this rejection be withdrawn.

3. Conclusion

Upon consideration of the foregoing, it will be recognized that Applicants have fully and appropriately responded to all of the Examiner's rejections. Accordingly, all claims are believed to be in proper form in all respects and a favorable action on the merits is respectfully requested. Should the Examiner feel that there are any issues outstanding after consideration of this amendment, the Examiner is invited to contact Applicants' undersigned representative to expedite prosecution.

Except for issue fees payable under 37 C.F.R. 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **constructive petition for extension of time** in accordance with 37 C.F.R. 1.136(a)(3).

Respectfully submitted,
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